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11 UNITED STATES DISTRICT COURT  
12 DISTRICT OF NEVADA

13 Clifford McClain,

14 Petitioner,

15 v.

16 Brian Williams, Warden, *et al.*,

17 Respondents.

Case No. 2:17-cv-00753-RFB-NJK

**Unopposed Motion for an  
Extension of Time in which to file  
Reply to Respondents' Answer  
(Third request)**

1       Petitioner Clifford McClain (“Mr. McClain”) moves for an extension of time of  
2       forty-five days (45), up to and including Monday, July 18, 2022, to file his reply to  
3       Respondents’ answer to his petition for habeas relief. Respondents do not oppose this  
4       request.

5       On July 9, 2019, this Court appointed the Federal Public Defender, District of  
6       Nevada to Mr. McClain’s case. ECF No. 39.<sup>1</sup> Undersigned counsel filed Mr. McClain’s  
7       Third Amended Petition for a Writ of Habeas Corpus on June 12, 2020. ECF No. 48.  
8       Respondents filed their answer to Mr. McClain’s petition on January 3, 2022. ECF  
9       No. 77. On February 4, 2022, ECF No. 78, and again on April 7, 2022, ECF No. 81,  
10      this Court granted undersigned counsel’s requests for extension of time to file Mr.  
11      McClain’s Reply to Respondents’ Answer. For the reasons detailed below, counsel now  
12      seeks an additional forty-five (45) day extension to file the pleading. Respondents do  
13      not oppose counsel’s request.

14      An extension of time is merited on account of numerous filing deadlines and  
15      commitments undersigned counsel recently had to meet. Specifically, undersigned  
16      counsel had to draft a Reply in the capital habeas matter *Hernandez v. Gittere et al.*,  
17      09-cv-00545-LRH (D. Nev.). The pleading was approximately 418 pages long and was  
18      ultimately filed with this Court on May 4, 2022. In addition, counsel had to draft an  
19      Opposition to a Motion to Dismiss and a Motion for Discovery in the capital habeas  
20      matter *Biela v. Gittere, et al.*, CR08-2605 (2nd J.D. Nev.). The opposition was  
21      approximately 150 pages long and was filed on May 26, 2022 with the Second Judicial  
22      District Court of the State of Nevada.

23      In addition to the above-responsibilities, counsel will need to meet several  
24      deadlines in the coming weeks that render a forty-five (45) day extension necessary.

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26      <sup>1</sup> The appointment followed this Court entering an Order granting in part the  
27      Respondents’ motion to dismiss Mr. McClain’s second amended, proper person  
    petition for habeas relief. ECF No. 39.

1 Specifically, counsel will need to draft a Reply in the non-capital habeas matter of  
2 *Zanini v. Baker, et al.*, 18-cv-00336-MMD (D. Nev.), due on June 20, 2022. Drafting  
3 the Reply, which counsel anticipates will be approximately 100 pages long, has  
4 proven particularly time-consuming on account of the number of claims counsel has  
5 to address as well as their complexity. In addition, counsel will need to draft an  
6 Opening Brief due June 24, 2022 with the Ninth Circuit Court of Appeals in the non-  
7 capital habeas matter *Robert Berry, Jr. v. Kyle Olsen, et al.*, 21-16943 (9th Cir.).

8 The above-duties and responsibilities are in addition to counsel's busy caseload  
9 handling both non-capital and capital habeas matters currently pending in Nevada  
10 and out-of-state district courts for which he is carrying on various investigations and  
11 research and writing assignments.

12 Finally, the present request for an extension of time is unopposed. On June 3,  
13 2022, counsel for Petitioner contacted Deputy Attorney Charles A. Finlayson via  
14 email concerning this request for an extension of time. Mr. Finlayson has no objection  
15 to the request. The extension of time will permit counsel time to properly address the  
16 Respondents' answer. The request is not made for the purposes of delay, but rather  
17 in the interests of justice.

18 WHEREFORE, counsel respectfully requests that this Court grant the request  
19 for an extension of time so that Mr. McClain can file his reply by Monday July 18,  
20 2022.  
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1 Dated June 3, 2022.

2 Respectfully submitted,

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4 Rene L. Valladares  
Federal Public Defender

5  
6 /s/ Martin L. Novillo  
Martin L. Novillo  
7 Assistant Federal Public Defender

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10 IT IS SO ORDERED:

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13 RICHARD F. BOULWARE, II  
14 United States District Judge

15 Dated: June 7, 2022  
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